

**DURHAM, NORTH CAROLINA
MONDAY, MARCH 17, 1997
7:30 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chamber at City Hall with the following members present: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Absent: None.

Also present: Interim City Manager Cecil Brown, City Attorney William I. Thornton, Jr., City Clerk Margaret M. Bowers and Deputy City Clerk D. Ann Gray.

Mayor Kerckhoff called the meeting to order and at this time a proclamation was read proclaiming "Quarters For Kids Blue Ribbon Week" April 1-7, 1997 in the City of Durham.

Council Member Clement read a "Resolution In Support of the Githens Middle School PTA "Intra-Academic Games" for All Area Public and Non-Public School Students.

The Mayor asked for priority items from the Interim City Manager, City Attorney and City Clerk. Interim City Manager Brown stated that the revisions had been made to the Lease Agreement for Police Substation, District 3, The Shoppes at Lakewood. **[No priority items from the City Attorney/City Clerk]**

Mayor Kerckhoff asked if any council member(s) or citizen(s) wanted to pull any item(s) from the Consent Agenda for discussion later in the meeting. The Mayor noted that Consent Item 6 [Proposed Lease of Jackie Robinson Place for Parking] was pulled at the Committee-of-the-Whole Meeting.

MOTION by Council Member Larson seconded by Council Member Griffin to approve the Consent Agenda as amended was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

CONSENT AGENDA

SUBJECT: STATUS REPORT FROM OVERSIGHT COMMITTEE FOR SELECTION OF CITY MANAGER

MOTION by Council Member Larson seconded by Council Member

Griffin to receive a status report from the Oversight Committee for the Selection of City Manager was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: HUMAN RELATIONS COMMISSION APPOINTMENT

MOTION by Council Member Larson seconded by Council Member Griffin to appoint Jill Edward Cotter to the Human Relations Commission, Non-Minority Member, for a term to expire June 30, 1999 was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: ACCEPTANCE OF GRANT AWARD AND ADOPTION OF THE CITY OF DURHAM AND NORTH CAROLINA DEPARTMENT OF TRANSPORTATION "IMPAIRED DRIVING ENFORCEMENT AND TRAINING" GRANT PROJECT ORDINANCE

MOTION by Council Member Larson seconded by Council Member Griffin to authorize the City Manager to accept the grant from North Carolina Department of Transportation in the amount of \$46,500.00; and

To adopt the City of Durham and North Carolina Department of Transportation "Impaired Driving Enforcement and Training" Grant Project Ordinance was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Ordinance #11047

SUBJECT: 1997-98 CONSOLIDATED ACTION PLAN PUBLIC HEARING

MOTION by Council Member Larson seconded by Council Member Griffin to adopt a resolution setting a public hearing on Monday, April 7, 1997 to receive citizens' comments on the Consolidated Action Plan draft for the 1997-98 program year was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Resolution #8313

SUBJECT: CONTRACT FOR PURCHASE OF TEN VANS, DATA ACCESS SERVICE - BRAUN CORPORATION

MOTION by Council Member Larson seconded by Council Member Griffin to authorize the City Manager to award and enter into a contract in the amount of \$312,614.00 with the Braun Corporation to provide ten van conversions with wheelchair lifts for DATA-ACCESS service was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: PROPOSED CHANGES TO LEASE AGREEMENT FOR POLICE SUBSTATION, DISTRICT 3, THE SHOPPES AT LAKEWOOD

MOTION by Council Member Larson seconded by Council Member Griffin to authorize the City Manager to make three changes to the lease agreement with The Shoppes at Lakewood, L.P., approved by the City Council on January 21, 1997 was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: PROPOSED LEASE AGREEMENT FOR POLICE SUBSTATION, DISTRICT 1, THE VILLAGE SHOPPING CENTER - UNITED DOMINION REALTY TRUST, INC.

MOTION by Council Member Larson seconded by Council Member Griffin to authorize the City Manager to 1) enter into a 36-month Lease Agreement with United Dominion Realty Trust, Inc. for the rental of Space 221, The Village Shopping Center, at a cost of \$500 per month; 2) execute, if any, Subordination Agreements and Estoppel Certificates required under the Lease Agreement; and 3) make changes as may seem desirable or appropriate to the City Manager, provided such changes do not materially affect the intent and purpose of the lease was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: PROPOSED SALE OF PROPERTY AT 1000 EAST MAIN STREET TO HAYTI DEVELOPMENT CORPORATION - EDMONTON REDEVELOPMENT PROJECT AREA 1

MOTION by Council Member Larson seconded by Council Member Griffin to reapprove the sale of the property at 1000 East Main Street to Hayti Development Corporation to reestablish a

90-day period to close was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: PROGRAM MIX FOR SECOND YEAR OF 1996-1998 JOB TRAINING PARTNERSHIP ACT (JTPA) PLAN FOR DURHAM CITY AND COUNTY

MOTION by Council Member Larson seconded by Council Member Griffin to approve the Program Mix for the second year of the 1996-1998 JTPA Plan; and

To authorize the Mayor and City Manager to execute the Workforce Development Board and Chief Elected Official JTPA Plan Concurrence Sheet was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: STATIONARY CONTAINER COLLECTION UPDATE

MOTION by Council Member Larson seconded by Council Member Griffin to receive an updated report from the Administration concerning stationary container collection was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: COUNCIL PRIORITIES FOR FISCAL YEAR 1997-98 BUDGET

MOTION by Council Member Larson seconded by Council Member Griffin to receive Council priorities for the FY 1997-98 Budget was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: FISCAL YEAR 1996-97 MID-YEAR PERFORMANCE REPORT

MOTION by Council Member Larson seconded by Council Member Griffin to receive the Fiscal Year 1996-97 Mid-Year Performance Report was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes:

None. Absent: None.

SUBJECT: RESCHEDULING OF THE APRIL 21, 1997 CITY COUNCIL MEETING

MOTION by Council Member Larson seconded by Council Member Griffin to adopt "An Ordinance Rescheduling the Regular City Council Meeting of Monday, April 21, 1997" to Tuesday, April 22, 1997 due to Passover was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Ordinance #11048

SUBJECT: RESOLUTION IN SUPPORT OF HOUSE BILL #44, HISTORIC TAX CREDIT BILL - REQUESTED BY BOARD OF DIRECTORS OF DOWNTOWN DURHAM, INC.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt a "Resolution in Support of House Bill #44, Historic Tax Credit Bill" was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Resolution #8314

SUBJECT: RESOLUTION MEMORIALIZING E. J. "MUTT" EVANS

MOTION by Council Member Larson seconded by Council Member Griffin to adopt a "Resolution Memorializing E. J. "Mutt" Evans" was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Resolution #8315

SUBJECT: RESOLUTION MEMORIALIZING SAMUEL DEWELL DILLARD

MOTION by Council Member Larson seconded by Council Member Griffin to adopt a "Resolution Memorializing Samuel Dewell Dillard" was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None.

Absent: None.

Resolution #8316

**SUBJECT: DURHAM FIRE DEPARTMENT - LIVE FIRE TRAINING EXERCISE
AT 1406 BERKLEY STREET**

MOTION by Council Member Larson seconded by Council Member Griffin to approve burning the house at 1406 Berkley Street for live fire training for the Durham Fire Department was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

**SUBJECT: ZONING CASE P96-98, JIM BLAINE, BEN FRANKLIN
BOULEVARD AND WILLIAM PENN PLAZA, SETTING PUBLIC
HEARING**

MOTION by Council Member Larson seconded by Council Member Griffin to adopt a resolution setting a public hearing on Monday, April 7, 1997 on the following rezoning request was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Resolution #8317

Case: P96-98

Applicant: Jim Blaine

Location: 13.38 acre tract located at the southeast corner of the intersection of Ben Franklin Boulevard and William Penn Plaza, in Independence Park east of Roxboro Road

Request: Rezoning from O&I-1(D) to O&I-1(D) and O&I-2(D), F/J-B Overlay (Change in Development Plan) (Tax Map 742, Block 2E, Lot 9). Two acres of the tract at the northeast corner of the intersection of Carver Street and Ben Franklin Boulevard to be rezoned to O&I-2(D).

**SUBJECT: PROPOSED EMINENT DOMAIN PROCEEDINGS IN CONNECTION
WITH THE EASTERN REINFORCING MAIN - PROPERTY OF
WILLIAM UPCHURCH**

MOTION by Council Member Larson seconded by Council Member Griffin to find that it is necessary in the public interest and for the public use and benefit to acquire, through eminent domain proceedings, a 751 square foot permanent water easement and an 849 square foot temporary easement in property owned by William Upchurch, shown as property of Sandra Upchurch on the map for Eastern Reinforcing Main,

sheet 14 of 32, prepared by Triangle Surveyors; and, to authorize the City Attorney to initiate proceedings for that purpose with a deposit into the court of \$500 as the City's estimate of just compensation; and

To ratify the mailing of 30 day notices was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: ENGINEERING FEES

MOTION by Council Member Larson seconded by Council Member Griffin to adopt "A Resolution Establishing and Revising Fees for Various Services Provided by the Engineering Department" was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Resolution #8318

SUBJECT: CONTRACT WS-67 - TWO-INCH WATER MAIN REPLACEMENT

MOTION by Council Member Larson seconded by Council Member Griffin to reject all bids for Contract WS-67 and to re-advertise the project at a later date was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: CONTRACT ST-158, FLEET MAINTENANCE LOT REPAIR - BLYTHE CONSTRUCTION, INCORPORATED

MOTION by Council Member Larson seconded by Council Member Griffin to authorize the City Manager to execute a contract with Blythe Construction, Incorporated for the construction of Fleet Maintenance lot repair;

To authorize the expenditure of \$120,000 from the Fleet Maintenance Lot Repair Account;

To adopt a "Capital Project Ordinance Superseding Ordinance #10774 Concerning Fuel Tanks Removal and Replacement; and

To adopt a "Capital Project Ordinance Superseding Ordinance #10775 Concerning Fleet Maintenance Parking Lot Improvements" was approved at 7:45 p.m. by the following vote: Ayes:

Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Ordinance #11049

Ordinance #11050

SUBJECT: SEWER EXTENSION CONTRACT, FOOD LION PLAZA AT PLEASANT DRIVE AND U. S. HIGHWAY 70 - EFFELL 70, LLC

MOTION by Council Member Larson seconded by Council Member Griffin to authorize the City Manager to enter into a Agreement with EFFELL 70, LLC for the extension City sewer to serve the proposed Food Lion Plaza, a 12.4 acre commercial site located on the northwest corner of Pleasant Drive and U.S. Highway 70 was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: SUPPLEMENTAL MUNICIPAL AGREEMENT WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR INTERSECTION IMPROVEMENTS AT HILLANDALE ROAD AND CARVER STREET

MOTION by Council Member Larson seconded by Council Member Griffin to adopt a resolution authorizing the City Manager to enter into a Supplemental Municipal Agreement with NCDOT for intersection improvements at Hillandale Road/Carver Street; and

To adopt a "Capital Project Ordinance Superseding Ordinance #10935 Concerning Miscellaneous Thoroughfare Right-of-Way Acquisition and Construction" was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Resolution #8319

Ordinance #11051

SUBJECT: WARD BOUNDARY SUBCOMMITTEE

MOTION by Council Member Larson seconded by Council Member Griffin to appoint a Ward Boundary Subcommittee, as follows, to consider ward boundary revisions was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and

Wright. Noes: None. Absent: None.

Councilmember Virginia Engelhard - Chair
Councilmember Cynthia D. Brown
Councilmember Tyrone Cox
Councilmember Kimball Griffin
Councilmember Angela V. Langley
Councilmember Paul Miller

SUBJECT: RESOLUTION DESIGNATING CERTAIN ZONING CODE CHANGES REGARDING SANITARY LANDFILLS AS COUNCIL-INITIATED ZONING AMENDMENTS AND SETTING PUBLIC HEARING CONCERNING SUCH AMENDMENTS

MOTION by Council Member Larson seconded by Council Member Griffin to adopt a Resolution Designating Certain Zoning Code Changes Regarding Sanitary Landfills as Council-Initiated Zoning Amendments and Setting Public Hearing Concerning Such Amendments on Monday, April 7, 1997 was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Resolution #8320

SUBJECT: CONTRACT EXTENSION - CLEANING SERVICES AT THE DURHAM BULLS ATHLETIC PARK, J. A. FARRINGTON SERVICES

MOTION by Council Member Larson seconded by Council Member Griffin to authorize the City Manager to extend the existing contract with J. A. Farrington Services for an additional season in the amount of \$135,360.00 was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: BID REPORT - JANUARY 1997

MOTION by Council Member Larson seconded by Council Member Griffin to approve and record in the minutes bids and items which were acted upon by the City Manager during the month of January 1997 was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

[Note: See Attachment #1 for itemized bid report]

SUBJECT: PARKING PROHIBITION - LAKELAND STREET

MOTION by Council Member Larson seconded by Council Member Griffin to adopt an ordinance to prohibit parking at all times on the east side of Lakeland Street in the area beginning at the north curb line of Mathison Street, if extended, and extending northwardly to the end of street was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Ordinance #11052

SUBJECT: PARKING PROHIBITION - ODYSSEY DRIVE

MOTION by Council Member Larson seconded by Council Member Griffin to adopt an ordinance to prohibit parking at all times on the south side of Odyssey Drive in the area beginning at the east curb line of Penrith Drive, if extended, and extending for a distance of 420 feet eastwardly was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Ordinance #11053

SUBJECT: PARKING PROHIBITION - ROXBORO STREET NORTH OF ERIE STREET

MOTION by Council Member Larson seconded by Council Member Griffin to adopt an ordinance prohibiting parking, except for school buses only, on the east side of Roxboro Street in the area beginning at the south curb line of Erie Street, if extended, and extending for a distance of 181 feet northwardly was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Ordinance #11054

SUBJECT: STOP SIGN - CAMBRIDGE VILLAGE SUBDIVISION

MOTION by Council Member Larson seconded by Council Member Griffin to adopt an ordinance authorizing the installation of a stop sign on Fidelity Drive at Fidelity Drive, southwest

corner was approved at 7:45 p.m. by the following vote:
Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council
Members Brown, Clement, Cox, Engelhard, Griffin, Hyman,
Langley, Larson, McKissick, Miller and Wright. Noes: None.
Absent: None.

Ordinance #11055

SUBJECT: STOP SIGN - INGLENOOK ROAD

MOTION by Council Member Larson seconded by Council Member Griffin to adopt an ordinance authorizing the installation of a stop sign on Inglenook Road at Alpine Road was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Ordinance #11056

SUBJECT: STOP SIGNS - COVINGTON LANE, TREYBURN

MOTION by Council Member Larson seconded by Council Member Griffin to adopt an ordinance authorizing the installation of stop signs at the following locations:

- 1) Covington Lane at Covington Lane, west intersection, west corner
- 2) Covington Lane at Covington Lane, east intersection, northwest corner
- 3) Covington Lane at Old Trail Drive, northeast corner

was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

Ordinance #11057

SUBJECT: HANDICAP PARKING - NORTH ROXBORO STREET

MOTION by Council Member Larson seconded by Council Member Griffin to adopt an ordinance establishing handicap parking on the east side of North Roxboro Street in the area beginning at a point 30 feet north of the north curb line of Edward Street, if extended, and extending for a distance of 24 feet northwardly was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and

Wright. Noes: None. Absent: None.

Ordinance #11058

SUBJECT: TIME PAYMENT PETITIONS

MOTION by Council Member Larson seconded by Council Member Griffin to approve the four Time Payment Petitions as listed below was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

1. Delton R. Holloway - 2502 N. C. 55 - Sewer Lateral, Sewer Main and Sewer Capital Facility Fee
2. James R. and Bonnie S. Kittel - 312 Continental Drive - Water Lateral and Water Capital Facility Fee
3. Edward R. and Jane W. Venable - 4205 Sunny Court - Water Lateral and Water Capital Facility Fee
4. Charles E. and Daisy E. Young - 3543 Cheek Road - Water Lateral and Water Capital Facility Fee

SUBJECT: STREET ACCEPTANCE - TRAPPERS CREEK IV AND GREYCLIFFS SUBDIVISION

MOTION by Council Member Larson seconded by Council Member Griffin to accept streets, as listed below, for maintenance by the City of Durham was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

1. Operations Drive - from the centerline of Bennett Memorial Road north to the centerline of Hillsborough Road (1,289')

Trappers Creek IV

1. Otters Run - from the centerline of Umstead Road southward thru the cul-de-sac (459')

Greycliffs Subdivision

1. Linville Court - from the centerline of Weatherby Drive eastward thru the cul-de-sac (193')

2. Leader Lane - from the centerline of Maymont Drive eastward thru the cul-de-sac (231')
3. Leader Lane - from the centerline of Maymont Drive westward thru the cul-de-sac (263')

SUBJECT: CITY COUNCIL MINUTES - CITY CLERK'S OFFICE

MOTION by Council Member Larson seconded by Council Member Griffin to approve the official minutes of the regular February 17, 1997 City Council meeting was approved at 7:45 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

GENERAL BUSINESS AGENDA

[PUBLIC HEARINGS]

SUBJECT: INTERIM STORM WATER UTILITY ORDINANCE

To receive a report from the Administration.

To receive citizens' comments concerning the Interim Storm Water Utility Ordinance.

To adopt an "Interim Storm Water Utility Ordinance and Revised Storm Water Service Charges."

City Engineer Ken Wright briefed council on the revised interim storm water utility ordinance and the proposed rates.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

The following persons spoke in opposition to the proposed storm water service charges: Attorney Paul Stam; Hank Fordham; Rev. Jerry Hooper; Michael Mulheirn; Tom Coulter; Ralph Gonias; and Jim UpChurch.

The following person spoke in support of the ordinance: Michael Thorpe.

Mayor Kerckhoff closed the public hearing.

At this time discussion was held by council on the proposed ordinance; the method used to calculate the new rates; the possibility of exempting certain categories; educational process for citizens; and the amount to be collected annually

with respect to the revised ordinance and rates.

MOTION by Council Member Brown seconded by Council Member McKissick to receive a report from the Administration; and

To receive citizens' comments concerning the Interim Storm Water Utility Ordinance was approved at 8:32 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

MOTION by Council Member McKissick seconded by Council Member Larson to refer the Interim Storm Water Utility Ordinance and Revised Storm Water Service Charges" to the Public Works Committee was approved at 8:33 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: Sidewalk - Anderson Street (East Side) from Morehead Avenue to Duke University Road

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Jean O'Bare and Chris Green spoke in support of this improvement.

Patricia Whitehurst raised concern relative to the possibility of trees being removed to put in the sidewalk.

Mayor Kerckhoff closed the public hearing.

MOTION by Council Member Larson seconded by Council Member Griffin to adopt a resolution ordering sidewalk on Anderson Street (East Side) from Morehead Avenue to Duke University Road and to direct the administration to submit the design of the sidewalk to the Public Works Committee for review was approved at 8:46 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: Sewer Main - Cook Road from East Property Line of Tax Map 411-2-4 to West Property Line of Tax Map 411-2-3 (Enabling Act Authority)

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public

hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Miller to adopt a resolution ordering sewer main improvements on Cook Road from east property line of Tax Map 411-2-4 to west property line of Tax Map 411-2-3 under the Enabling Act Authority was approved at 8:47 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

SUBJECT: AN ORDINANCE AMENDING THE WATERSHED PROTECTION PROVISIONS OF THE DURHAM ZONING ORDINANCE - IMPERVIOUS SURFACE DEFINITION (CITIZEN'S REQUEST)

To receive citizens' comments concerning "An Ordinance Amending the Watershed Protection Provisions of the Durham Zoning Ordinance."

To adopt "An Ordinance Amending the Watershed Protection Provisions of the Durham Zoning Ordinance."

The following individuals spoke in support of the ordinance: Glenn Ward; George Bailey; Kathy Wright-Moore; Nick Tennyson and Bill Span.

Ed Harrison requested council to support the ordinance along with the Environmental Affairs Board's recommendation [50/50 difference].

The public hearing was closed by the Mayor.

A motion was made by Mayor Pro Tem Robinson seconded by Council Member Clement to receive the citizens' comments and to adopt an ordinance amending the Watershed Protection Provisions of the Durham Zoning Ordinance.

SUBSTITUTE MOTION by Council Member Hyman seconded by Council Member Wright to receive the citizens' comments and; to refer the ordinance amending the Watershed Protection Provisions to the Public Works Committee to discuss the Environmental Affairs Board's recommendation **FAILED** at 9:18 p.m. by the following vote: Ayes: Council Members Hyman, Engelhard, Cox, Miller, Brown and Wright. Noes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Clement, Griffin, Langley, Larson and McKissick. Absent: None.

MOTION by Mayor Pro Tem Robinson seconded by Council Member Clement to receive citizens' comments concerning "An Ordinance Amending the Watershed Protection Provisions of the Durham Zoning Ordinance"; and

To adopt "An Ordinance Amending the Watershed Protection Provisions of the Durham Zoning Ordinance" was approved at 9:18 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Clement, Griffin, Langley, Larson, McKissick, Miller and Wright. Noes: Council Members Hyman, Cox, Engelhard and Brown. Absent: None.

Ordinance #11061

SUBJECT: ZONING ORDINANCE TEXT AMENDMENT ALLOWING MUNICIPAL SOLID WASTE SANITARY LANDFILL FACILITIES IN THE FALLS/JORDAN - B WATERSHED DISTRICT

To receive a report from the Administration.

To receive citizens' comments concerning the "Zoning Ordinance Text Amendment Allowing Municipal Solid Waste Sanitary Landfill Facilities in the Falls/Jordan - B Watershed District."

To adopt a "Zoning Ordinance Text Amendment Allowing Municipal Solid Waste Sanitary Landfill Facilities in the Falls/Jordan -B Watershed District."

Nancy Newell, of the Solid Waste Department, briefed council on the proposed text amendment.

Richard Stahr, representing Malcom Pirrne, presented a slide presentation on unlined and lined landfills.

Dr. Art Werner, representing the Catmus Group, presented a slide presentation on Falls Lake Watershed, Falls Lake Hazardous & Toxic Materials Sites, Predicted Benzene Concentration at Raleigh Water Intake at various locations.

The following persons spoke in opposition to the adoption of the ordinance: Vivian Harris; Sheila Goss; Tom Lavelle; Steven Berkowitz; Tommy Eddis; Lyn Tilley; Peter Haines; Rev. Nathaniel Wall; Milo Pyne; Tom Stern; County Commissioner Becky Heron; Donna Deal; Rufus Frazier; George Strayhorn; Michael Thorpe; Jackie Brown and Attorney Ann Slifkin.

Rick Lauck, representing Waste Management, informed the council that his company was planning to construct a transfer station and asked council to give some consideration to this alternative for Durham's waste.

The public hearing was closed by the Mayor.

After discussion by council, the following action was taken:

MOTION by Council Mayor Pro Tem Robinson seconded by Council Member Miller to receive a report from the Administration;

To receive citizens' comments concerning the "Zoning Ordinance Text Amendment Allowing Municipal Solid Waste Sanitary Landfill Facilities in the Falls/Jordan - B Watershed District"; and

To adopt a "Zoning Ordinance Text Amendment Allowing Municipal Solid Waste Sanitary Landfill Facilities in the Falls/Jordan -B Watershed District" was approved at 11:31 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Clement, Cox, Griffin, Hyman, Larson and Miller. Noes: Council Members Langley, Engelhard, McKissick, Brown and Wright. Absent: None.

Ordinance #11060

MOTION by Council Member McKissick seconded by Council Member Miller to continue the meeting on Tuesday, March 18, 1997 at 7:30 p.m. was approved at 11:35 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: Council Member Griffin. Absent: None.

[EXCUSE COUNCIL MEMBERS FROM CONTINUED MEETING]

MOTION by Mayor Pro Tem Robinson seconded by Council Member Cox to excuse Council Members Griffin, McKissick and Hyman from the continued meeting on Tuesday, March 18, 1997 was approved at 11:35 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Hyman, Langley, Larson, McKissick, Miller and Wright. Noes: None. Absent: None.

**DURHAM, NORTH CAROLINA
TUESDAY, MARCH 18, 1997
7:30 P.M.**

The Durham City Council reconvened their meeting on the above date and time in the Council Chamber at City Hall with the following members present: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Langley, Larson, McKissick, Miller and Wright. Excused Absence: Council Member Hyman.

Note: Council Members Griffin and McKissick were previously excused from the continued meeting. They were counted as present and voting upon entering the meeting.

Also present: Interim City Manager Cecil Brown, City Attorney William I. Thornton, Jr., City Clerk Margaret M. Bowers and Deputy City Clerk D. Ann Gray.

Mayor Kerckhoff called the meeting to order stating that GBA Items 4, 10 and 16 were being continued to the April 7, 1997 City Council Meeting.

**SUBJECT: ZONING MATTER CASE P96-76, M. L. DURHAM ASSOCIATES,
CORNWALLIS ROAD WEST OF INDUSTRY LANE INTERSECTION**

Case: P96-76

Applicant: M. L. Durham Associates

Location: The 5-acre site is located on Cornwallis Road just west of the Industry Lane intersection (Tax Map 407, Block 02, Lot 003A partial)

Request: Rezoning from OI-2 (General Office and Institutional) to RM-12(D) (Residential Multifamily at 12 Units Per Acre with a Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of OI-2 and placing same in and establishing same as RM-12(D).

Zoning Committee's Recommendation: Approval 4-3 (Draft Summary of the Durham Planning Commission Zoning Committee Meeting of January 14, 1997 included in attachment)

City Manager's Recommendation: Denial

MOTION by Council Member Wright seconded by Council Member Larson to continue this rezoning matter without further advertisement to the April 7, 1997 City Council Meeting was approved 7:39 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Langley, Larson, Miller and Wright. Noes: None. Excused Absence: Council Members Griffin, Hyman and McKissick.

**SUBJECT: MAJOR SPECIAL USE PERMIT FOR TRAFFIC IMPACT ANALYSIS
ON MIDLAND/RALEIGH ACQUISITION, LLD - KROGER CENTER,
CASE T97-1**

To hold a public hearing and evaluate the evidence presented relative to findings required for issuance of a Major Special Use Permit for Traffic Impact Analysis.

After the hearing, one of the following motions is in order:

Motion A (Approval With or Without Conditions) - To direct the Planning Director to prepare a decision granting with

conditions the Use Permit in case T97-1. (Council should identify any conditions they wish to incorporate into their approval. Staff will prepare the decisions for Council's next meeting for action.)

Motion B (Disapproval) - To direct the Planning Director to prepare a decision denying the Use Permit in Case T97-1. (Council should identify the findings they are unable to make so these can be incorporated into the decision. Staff will prepare the decision for Council's next meeting for action.)

MOTION by Council Member Wright seconded by Council Member Larson to continue this matter without further advertisement to the April 7, 1997 City Council Meeting was approved 7:39 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Langley, Larson, Miller and Wright. Noes: None. Excused Absence: Council Members Griffin, Hyman and McKissick.

SUBJECT: DISTRIBUTION OF 2 OZ. SAMPLES OF BEER TO ALL ABOUT BEER MAGAZINE'S WORLD BEER FESTIVAL PARTICIPANTS - CHAUTAUGA, INC.

To approve a request from Chautaugua, Inc., publishers of *All About Beer Magazine*, to close Blackwell Street from Willard Street to Pettigrew Street and Dillard Street to Mangum Street from 5:00 p.m. June 20 to noon June 22, 1997 and to distribute (2 oz. samples) beer to festival participants as part of the World Beer Festival.

MOTION by Council Member Larson seconded by Council Member Miller to continue this matter to the April 7, 1997 City Council Meeting was approved 7:40 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Langley, Larson, Miller and Wright. Noes: None. Excused Absence: Council Members Griffin, Hyman and McKissick.

SUBJECT: ZONING MATTER CASE P96-80, DAVID HALEY, WILLIAMSBURG ROAD NORTH OF CHAPEL HILL ROAD

Case: P96-80

Applicant: David Haley

Location: The 1.72 acre site is located west of Williamsburg Road, north of Chapel Hill Road (Tax Map 433, Block 6, Lots 25A, 25B and 25C)

Request: Rezoning from R-20 (One Family Residence) to R-5(D) (One Family Residence with a Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same

being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and placing same in and establishing same as R-5(D).

Zoning Committee's Recommendation and Vote: Approval; 5-1

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Proponents

David Haley, the applicant, stated he was present to answer questions.

Opponents

Jane Davis, a resident of Southwest Durham, spoke against strip development on Williamsbury Way. She stated this development would affect the safety of the residents especially the children and the quality of life.

Rebuttal

David Haley stated the property was approximately 150 feet deep and he had no alternative on what he could do with this land.

Mayor Kerckhoff closed the public hearing.

Discussion was held by council on the width of the lots, buffers being provided, the immediate zoning in the vicinity, the number of houses being proposed for construction, parking and the 2020 plan.

MOTION by Council Member Wright seconded by Council Member Larson to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and placing same in and establishing same as R-5(D) was approved 7:57 p.m. by the following vote: Ayes: Council Members Brown, Clement, Cox, Langley, Larson, Miller and Wright. Noes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Member Engelhard. Excused Absence: Council Members Griffin, Hyman and McKissick.

**SUBJECT: ZONING MATTER CASE P96-84, BETTER DEALS CORPORATION,
YORKTOWN AVENUE AND ODYSSEY DRIVE**

Case: P96-84

Applicant: Better Deals Corporation

Location: The 6.048-acre site is located at the south side of the intersection of Yorktown Avenue and Odyssey Drive. It

consists of one parcel of land identified as Tax Map 554, Block 2, Lot 22 partial.

Request: Change in Development Plan--Rezoning from PDR-7.12 (Planned Density Residential at 7.12 dwelling units per acre) to PDR-7.12 (Planned Density Residential at 7.12 dwelling units per acre)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of PDR-7.12 and placing same in PDR-7-12 (**change in Development Plan**).

Zoning Committee's Recommendation and Vote: Approval; 6-0

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Bill Roberts, representing the applicant, spoke in support of the request. Also, Mr. Roberts asked the council to approve the minor change in the development plan and waive the administrative requirement for the PDR siteplan for 50 lots or more to be brought back to council at a later date.

No one spoke in opposition. Mayor Kerckhoff closed the public hearing.

Sheila Stains-Ramp briefed the council on the request to waive the administrative requirement relative to the PDR siteplan for 50 lots or more.

A motion was made by Council Member Wright to approve the rezoning request and to waive the administrative requirement for the PDR siteplan of 50 lots or more. This motion was seconded by Council Miller.

For staff clarification, Bonnie Estes asked if the motion was to approve the request with the staff recommendation that the cul-de-sac be revised.

Council Member Wright replied yes.

Council Member Miller asked if the recommendations made by staff were acceptable to the applicant.

Bill Roberts stated the Zoning Committee requested that they redesign the cul-de-sac and they have complied and the proposal was reviewed by the DRB and approved subject to corrections. He noted he was in receipt of the corrections and the site plan which matches the development plan. Mr. Roberts stated they felt they have met the requirements by the planning staff.

Due to the lack of clarity concerning the details of the cul-de-sac, the following action was taken by the council.

SUBSTITUTE MOTION by Council Member Langley seconded by Council Member Miller to refer this rezoning request to the administration for review by the developer and staff to make certain the recommendations requested by the administration are a part of the proposal [matter to be brought back to council at their April 7, 1997 City Council Meeting] was approved at 8:19 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Langley, McKissick and Miller. Noes: Council Members Larson and Wright. Excused Absence: Council Member Hyman and Griffin.

At this time, Council Member Cox requested council to reconsider the action taken on GBA #5 [Zoning Matter Case P96-80].

SUBJECT: ZONING MATTER CASE P96-80, DAVID HALEY, WILLIAMSBURG ROAD NORTH OF CHAPEL HILL ROAD

Case: P96-80

Applicant: David Haley

Location: The 1.72 acre site is located west of Williamsburg Road, north of Chapel Hill Road (Tax Map 433, Block 6, Lots 25A, 25B and 25C)

Request: Rezoning from R-20 (One Family Residence) to R-5(D) (One Family Residence with a Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and placing same in and establishing same as R-5(D).

Zoning Committee's Recommendation and Vote: Approval; 5-1

City Manager's Recommendation: Approval

MOTION by Council Member Cox seconded by Mayor Pro Tem Robinson to reconsider council's action on Zoning Case P96-80 was approved at 8:20 p.m. by the following vote: Ayes: Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Langley, McKissick and Wright. Noes: Mayor Kerckhoff and Council Members Miller and Larson. Excused Absence: Council Member Hyman and Griffin.

MOTION by Council Member McKissick seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and placing same in and establishing same as R-5(D) was approved at 8:21 p.m. by the following vote: Ayes: Mayor Kerckhoff and Council

Members Brown, Clement, Langley, Larson, Miller and Wright.
Noes: Mayor Pro Tem Robinson and Council Members Cox,
Engelhard and McKissick. Excused Absence: Council Member
Hyman and Griffin.

**SUBJECT: ZONING MATTER CASE P96-97, FOSTER SELLAR LLC, 2694
DURHAM-CHAPEL HILL BOULEVARD**

Case: P96-97

Applicant: Foster/Seller LLC

Location: The 2.4035-acre site is located at 2694 Durham-
Chapel Hill Boulevard. It consists of one parcel of land
identified as Tax Map 208, Block 1, Lot 2.

Request: Rezoning from GC (General Commercial) and RM-12
(Residential Multi-family with 8 dwelling units per acre) to
GC(D) (General Commercial with a Development Plan

To adopt an ordinance amending the Zoning Ordinance, the same
being Chapter 24 of the Durham City Code, by taking the above
described property out of GC and RM-12 and placing same in
and establishing same as GC(D).

Zoning Committee's Recommendation and Vote: Approval; 6-0

City Manager's Recommendation: Approval only with recommended
changes

As this was the time and place set for the public hearing,
anyone interested was given the opportunity to be heard.

Attorney Jack Markham, representing the applicant, addressed
the council noting the features being proposed. He stated
there would be no access from Francis Street. Mr. Markham
stated the applicant preferred that there be no requirement
to pave the parking lot. He noted the applicant was willing
to install the necessary curbing to define the parking areas
and protect landscape islands and buffers on the perimeter of
the parking areas; however, they would prefer to maintain the
unpaved surface if possible. He noted that paving of the
parking lot was discussed by the Zoning Committee; however,
it was not a part of their recommendation. Mr. Markham asked
council to support the rezoning request.

No one spoke in opposition. Mayor Kerckhoff closed the
public hearing.

A motion was made by Council Member Larson to approve the
rezoning request. The motion was seconded by Council Member
Miller.

Council Member McKissick raised concern relative to the
request by the applicant not to pave the parking lot.

The administration noted that paving the lot would be for

safety and aesthetics. The administration also informed the council that the Transportation Department did not have a preference regarding the paving of the parking lot; however, they did state the entrance into the parking lot should be paved.

Attorney Jack Markham stated the applicant has agreed to pave the apron off Chapel Hill Boulevard into the parking lot.

For clarification, Council Member Larson stated his motion to approve the rezoning request did not include the requirement to pave the parking lot.

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of GC and RM-12 and placing same in and establishing same as GC(D) was approved at 8:31 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Langley, Larson, McKissick, Miller and Wright. Noes: None. Excused Absence: Council Members Griffin and Hyman.

SUBJECT: ZONING MATTER CASE P96-99, HANOVER R. S. LIMITED PARTNERSHIP, NC 54 WEST OF NC 55

Case: P96-99

Applicant: Hanover R.S. Limited Partnership

Location: 35.17 acres on the north side of NC 54, west of NC 55, south of I-40 (Tax Map 548-1-10)

Request: Rezoning from PDR 9.56 (336 multi-family units); F/J-B, MTC to PDR 8.13 (286 multi-family units); F/J-B, MTC

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of PDR 9.56 F/J-B, MTC and placing same in and establishing same as PDR 8.13; F/J-B, MTC

Zoning Committee's Recommendation and Vote: Approval; 5-1

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Wayne Deal, the applicant, spoke in support of the request. Mr. Deal responded to two issues the staff requested [sidewalks and parking]. He stated the current plan submitted meets the criteria for approval of sidewalks; however, the staff recommended an increase in sidewalks. He noted they were trying to deal with floodplain and wetland issues and did not want to encroach upon those issues, and

still maintain their impervious surface area below the 24 percent. He asked the council to approve the sidewalks that were originally submitted on the preliminary plan. He noted they proposed 60 garages for the site; however, the staff only wanted to count 50 percent as parking spaces for fear of people using the garages for storage. He stated they would like to have 60 garages counted as 60 spaces.

Marty Linn, representing John R. McAdams Company, noted by adding 30 more parking spaces and sidewalks around the parking area would push the applicant over the 24 percent impervious surface area which would force the applicant to construct and maintain a retention pond for stormwater.

No one spoke in opposition. Mayor Kerckhoff closed the public hearing.

Council Member Wright noted discussion had taken place in the past on how to adjust parking space requirements to comply with council's desire for people to reduce dependence on automobiles. She asked the administration if they had reviewed this proposal as an opportunity to work with the developer to accomplish same.

The administration noted the applicant did request a 20 percent reduction in spaces and this reduction has been approved by the Development Review Board. The administration stated the ordinance requires 572 spaces and the applicant is providing 427 spaces in open surface parking plus 60 garage spaces for a total of 487, and 457 spaces would be a 20 percent reduction. The staff noted in a number of instances garage spaces are not used on the same basis as open spaces. The administration also noted the applicant did raise a very valid point being if they had provided the 30 additional spaces, they would have to cover more surface with impervious surface.

Council Member Wright stated she would be inclined to review the garages as parking.

Council Member Cox raised concern relative to a further reduction in parking.

For clarification, Council Member McKissick asked the administration if DRB had already granted a 20 percent reduction.

Shelia Stains-Ramp, of the City/County Planning Department, replied yes. She noted the question is whether the garage spaces should count toward the 20 percent or not.

MOTION by Council Member Wright seconded by Council Member Clement to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking

the above described property out of PDR 9.56 F/J-B, MTC and placing same in and establishing same as PDR 8.13; F/J-B, MTC was approved at 8:55 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Engelhard, Langley, Larson, McKissick, Miller and Wright. Noes: Council Member Cox. Excused Absence: Council Members Griffin and Hyman.

MOTION by Council Member Larson seconded by Council Member Miller to refer Parking Issues to the Joint City/County Planning Committee was approved at 8:55 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Langley, Larson, McKissick, Miller and Wright. Noes: None. Excused Absence: Council Members Griffin and Hyman.

SUBJECT: MAJOR SPECIAL USE PERMIT FOR AN ADDITION TO TRIANGLE DAY SCHOOL ON NEAL ROAD - CASE M97-3

Bonnie Estes, of the City/County Planning Department, stated that the order had been prepared as directed by Council at the March 3, 1997 Meeting.

Mayor Kerckhoff closed the public hearing.

MOTION by Council Member Larson seconded by Council Member Clement to adopt an "Order Granting, Upon Certain Conditions, a Major Special Use Permit for an Addition to Triangle Day School - Case M97-3" was approved at 8:56 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Langley, Larson, McKissick, Miller and Wright. Noes: None. Excused Absence: Council Members Griffin and Hyman.

Ordinance #11059

[OTHER MATTERS]

SUBJECT: TAXICAB COMMISSION REPORT

To receive a report from the Taxicab Commission and to take action on the following recommendations of the Taxi Commission--pursuant to Section 22.159.10 of the Durham City Code:

a. Denial of Driver's Permit - Tracy Pope

Taxicab Inspector's Recommendation: Deny driver's permit (in accordance with City Code)

Taxicab Commission's Recommendation: Approve six-month probationary permit with no traffic violations during that

period. (Vote 3-0)

MOTION by Council Member Wright seconded by Council Member Clement to approve the Taxicab Commission's recommendation [approve six-month probationary permit for Tracy Pope with no traffic violations during that period] was approved at 8:57 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Langley, Larson, McKissick, Miller and Wright. Noes: None. Excused Absence: Council Members Griffin and Hyman.

b. Denial of Driver's Permit - Mark McMillan

Taxicab Inspector's Recommendation: Deny driver's permit (in accordance with City Code)

Taxicab Commission's Recommendation: Approve driver's permit. (Vote 3-0)

MOTION by Council Member Wright seconded by Council Member Clement to approve the Taxicab Commission's recommendation [approve driver's permit for Mark McMillan] was approved at 8:57 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Langley, Larson, McKissick, Miller and Wright. Noes: None. Excused Absence: Council Members Griffin and Hyman.

SUBJECT: PROPOSED ORDINANCE TO AMEND THE DURHAM ZONING ORDINANCE TO REVISE THE CLASSIFICATION OF CERTAIN USES - TC43-97 - MINOR SPECIAL USES

MOTION by Council Member Larson seconded by Council Member Miller to adopt "An Ordinance to Amend the Durham Zoning Ordinance to Revise the Classification of Certain Uses" to become Minor Special uses **with the exception of Public Utilities** was approved at 9:10 p.m. by the following vote: Ayes: Mayor Kerckhoff and Council Members Brown, Clement, Engelhard, Griffin, Langley, Larson, McKissick, Miller and Wright. Noes: Mayor Pro Tem Robinson and Council Member Cox. Excused Absence: Council Member Hyman.

Ordinance #11062

MOTION by Council Member Larson seconded by Council Member Miller to adopt "An Ordinance to Amend the Durham Zoning Ordinance to Revise the Classification" of **Public Utilities to become Minor Special Uses to be reviewed by the Board of Adjustment FAILED** at 9:11 p.m. by the following vote: Ayes: Mayor Kerckhoff and Council Members Clement, Griffin, Langley, Larson and Wright. Noes: Mayor Pro Tem Robinson

and Council Members Cox, Engelhard, McKissick, Miller and Brown. Excused Absence: Council Member Hyman.

Note: Public Utilities remains a Major Special Use Permit.

SUBJECT: STREET CLOSING (SC96-2) - JACKIE ROBINSON PLACE

Ann Guyton raised concern relative to the proposed closing of Jackie Robinson Place and the impact of future development on the remaining property in the area.

MOTION by Council Member Larson seconded by Council Member Clement to adopt a resolution 1) declaring the intent of the City Council to permanently close Jackie Robinson Place; and 2) setting a public hearing on Monday, April 7, 1997 to consider closing Jackie Robinson Place was approved at 9:16 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Engelhard, Griffin, Langley, Larson, McKissick, Miller and Wright. Noes: Council Member Cox. Excused Absence: Council Member Hyman.

Resolution #8321

SUBJECT: CONTRACT ST-167, TRIANGLE GRADING AND PAVING, INCORPORATED - WEST CHAPEL HILL STREET SIDEWALK

To authorize the City Manager to execute a contract with Triangle Grading and Paving, Incorporated for the construction of the West Chapel Hill Street Sidewalk project; and

To authorize the expenditure of \$172,000 from the Replacement Sidewalk Account.

MOTION by Council Member Larson seconded by Council Member Clement to reject all bids received for Contract ST-167, West Chapel Hill Street Sidewalk was approved at 9:17 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Cox, Engelhard, Griffin, Langley, Larson, McKissick, Miller and Wright. Noes: None. Excused Absence: Council Member Hyman.

[ITEM PULLED FROM THE CONSENT AGENDA]

SUBJECT: PROPOSED LEASE OF JACKIE ROBINSON PLACE FOR PARKING ADJACENT TO THE DURHAM BULLS ATHLETIC PARK - CBC REAL ESTATE, INC.

Ann Gutyon asked council to re-evaluate the market value for

the proposed parking rates.

Council Member Cox raised questions relative to the agreement negotiated with CBC Real Estate.

MOTION by Council Member Larson seconded by Council Member Wright to propose to accept the offer of CBC Real Estate, Inc. to lease Jackie Robinson Place adjacent to the Durham Bulls Athletic Park for \$22,080 per year for twenty years contingent on the approval of a street closing order for Jackie Robinson Place; and

To authorize the City Manager to advertise for upset bids was approved at 9:56 p.m. by the following vote: Ayes: Mayor Kerckhoff, Mayor Pro Tem Robinson and Council Members Brown, Clement, Engelhard, Griffin, Langley, Larson, McKissick, Miller and Wright. Noes: Council Member Cox. Excused Absence: Council Member Hyman.

There being no further business to come before the Council, the meeting was adjourned at 9:57 p.m.

D. Ann Gray
Deputy City Clerk

Margaret M. Bowers, CMC
City Clerk